

The opinion in support of the decision being entered today was
not written for publication and is not binding precedent of the
Board.

Paper No. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

MAR 15 2002

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID KESSLER
ALAN C.G. NUTT and RUSSELL J. PALUM

Appeal No. 2002-0621
Application 08/770,381

ORDER REMANDING TO EXAMINER

An amendment after final was filed by appellants on November 20, 2000 (Paper No. 19). The Advisory Action mailed December 18, 2000 (Paper No. 21) indicated that such amendment would be entered upon filing an appeal. Both, the Appeal Brief filed January 24, 2001 (Paper No. 22) and the Examiner's Answer mailed February 28, 2001 (Paper No. 23) indicate that this

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amendment has been entered. A review of the record indicates the amendment was not entered.

In addition, according to page 3 of the Examiner's Answer mailed February 28, 2001 (Paper No. 23), "[t]he copy of the appealed claims contained in the Appendix to the brief is correct." However, it should be noted that language of claims 11 and 12 in the Appendix differs from its last amended version (see the amendment filed September 24, 1999 (Paper No. 9)).

Accordingly, it is

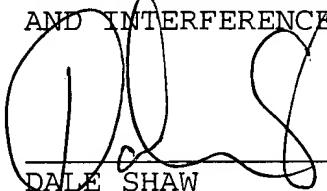
ORDERED that the application is remanded to the Examiner:

1. for entry of the amendment filed November 20, 2000 (Paper No. 19) and notification to appellants in writing of the action taken;
2. for notification to appellants to submit a corrected Appendix to the Appeal Brief filed January 24, 2001 (Paper No. 22) to replace the existing defective Appendix, or for the examiner to issue a supplemental Examiner's Answer to officially correct the Appendix; and
3. for such further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

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